



# City Of Alpena Parks Use Policy

The City of Alpena Park System consists of approximately 100 Acres of land with nearly 16.5 miles of bike path, and approximately 1-1/2 miles of Lake Huron Shoreline. There are 18 Parks within the City of Alpena including the following:

Avery Park

North Riverfront Park

Bay View Park

South Riverfront Park

Blair Street Park

Starlite Beach

Culligan Plaza

Sytek Park

Duck Park

Thomson Park

Eleventh Avenue Boat Launch

Washington Avenue Park

Island Park

Water Tower Park

LaMarre Park

Veteran's Memorial Park

McRae Park

Alpena City Hall

Mich-e-ke-wis

These Parks are intended for use and enjoyment by residents of the City of Alpena and visitors to our area. The City reserves the right to establish capacities for each park outlined herein. The following standards and requirements have been established by which activities, special events, and large gatherings may be permitted within the Alpena Park System when the requirements have been met and approved by the Alpena City Council or City staff.

## DEFINITIONS

- A. "Applicant" means a person who applies for a use permit.
- B. "Capacity" shall mean the number of people that are allowed to attend an event and remain within the confines of the rental area
- C. "Deposit" shall mean an amount of money paid in advance to the City by the event sponsor and held by the City until the conclusion of the event and inspection by the City of the facilities utilized. The cost of any damages to the facilities or costs of any cleanup required by the City not performed per the policy shall be deducted from the monies held. In the event that the deposit held does not cover all costs incurred, the event sponsor shall be billed for the additional costs.
- D. "Event" means any activity or gathering to be held in a City of Alpena Park, all or any of which includes a theatrical or musical exhibition, public exhibition, public show, display, entertainment, amusement or exhibition including but not limited to, large picnics; reunions; family, club, fraternity or sorority gatherings; races; walking events; youth and adult sporting events; fishing tournaments; day camps or similar gatherings; but does not mean:
  - a. An event which is conducted or sponsored by the City of Alpena on publicly owned land;
  - b. An event, with a valid reservation, held entirely within the confines of a picnic shelter and within the limits of the shelter's rated capacity; or
  - c. Volunteer groups working within the park, with advanced permission from City staff.
- E. "Fees" means any cost, as established by the City, for rental or use of a park, portion of a park, or facilities within a park.
- F. "Large Event" means an event where the expected or actual number of participants is greater than 100. This is not intended to include events not open to the public and family in nature, ie family reunions, weddings, etc. The City does however; reserve the right to incorporate large event requirements upon any event if deemed appropriate by City staff.
- G. "Person" means any individual, partnership, corporation, association, group or organization.
- H. "Sponsor" means any person or group of persons who organizes, promotes, conducts, or causes to be conducted, any event or a large outdoor assembly.
- I. "Youth Group" means a group organized for, and whose membership comprises of children 0-18 years of age. The term 'youth group' shall not include any college or university youth group.

## APPLICATION FOR A USE PERMIT

- A. A person shall not sponsor, operate, maintain, conduct, or promote an event in any City of Alpena Park unless the person shall have first made application for, and obtained as hereinafter prescribed, a permit for each such event.
- B. Any person making application for a use permit who is not current in paying City property taxes, is in default to the City, or is in litigation with the City shall have that application denied with no appeal process.
- C. A person shall not conduct an event in any City of Alpena Park unless a permit has been issued for that event.
- D. Application for a permit to conduct any event must be made in writing on such forms and in such a manner as prescribed by the City of Alpena. For small events the initial application shall be made at least thirty (30) days prior to the date of the proposed event. For large events the initial application

shall be made at least sixty (60) days prior to the date of the proposed event. The City of Alpena reserves the right to allow City staff to waive this requirement provided all information is provided in a timely manner.

## **FEES AND DEPOSITS**

- A. For events taking place within the confines of a park building (within the buildings rated capacity), the normal rental fee and deposit, as established in the fee schedule within the City of Alpena budget document, shall apply and be due upon application for the reservation.
- B. If an event causes any building or facility to be unavailable for rent to the general public, the event shall be responsible for the normal rental fees as established in the fee schedule for that building or facility. The rental fee shall be due upon application for the reservation, regardless of whether the building or facility is being used by the event.
- C. An additional deposit, per the City of Alpena's fee schedule, may be required for a person reserving a shelter or park area, if that person or group has failed to abide by City of Alpena rules and regulations for use of the parks in the past or violated this policy during a previous event at a City of Alpena Park. Deposits, when required, are due upon application for the reservation. Failure to pay any required deposit may result in forfeiture of the reservation and any fees paid to date for the event.
- D. Any deposits required will be retained by the City Clerk's Office to cover any costs incurred for repair or maintenance of the area utilized by the event. In the event the applicant does not comply with cleanup requirements or causes damages to the City owned facilities, the cost for repairs or performing the work shall be deducted from the deposit. The balance of the deposit shall be returned. If costs exceed the deposit amount, the sponsor shall be billed for the difference.
- E. A waiver of fees may be considered by City staff for events that are charitable in nature.
- F. If the event is canceled the deposit and fees paid can be refunded up until two (2) weeks prior to the event.
- G. For Profit entities, those charging a fee to attend the event, payment for services rendered, or those selling goods reserving and utilizing a park or facility shall be required to pay twice the published fee as established in the annual budget.

## **ACTION BY THE CITY**

- A. The application shall be reviewed by City staff for consideration.
- B. The City Manager or his or her designee shall make decisions regarding approval or disapproval of an event permit.
- C. An applicant may appeal a denial of an application by the City Manager within five (5) days of the notice of denial, by submitting a written appeal to the City Clerk's Office. The City Council shall review the appeal at its next regularly scheduled session and shall advise the applicant of its decision in writing, within five (5) days of the meeting at which the appeal was addressed.

## **PERMIT DENIAL – The permit may be denied if:**

- A. The application fails to comply with any requirements of this policy, existing park rules and regulations, or any conditions imposed pursuant hereto, or with any other applicable provisions of state law or local ordinances.

- B. The applicant has knowingly made a false, misleading, or fraudulent statement in the application or in any supporting document.
- C. City staff or the Alpena Municipal Council may deny the permit for any of the following reasons, including but not limited to:
  - prior commitments
  - scheduling conflicts
  - facility capacities
  - prior performance of the applicant, person, or sponsor
  - failure to follow park rules and regulations
  - exceeding shelter or area capacities or exceeding the limits of a previous permit
  - A lack of adequate City staff for the protection of the parks and their visitors.

## **APPEAL**

Any individual applicant may appeal a denial by petitioning the Alpena Municipal Council.

## **SOUND PRODUCING EQUIPMENT**

Where the event involves the use of mechanically or physically amplified sounds, the use of such equipment shall not constitute a nuisance or produce excessive amplification which will unduly interfere with the rights and privileges of other park users and/or neighboring residents, or violate the City's Noise Ordinance 54-1. The Alpena Municipal Council shall be the only body with authority to waive any portion of Ordinance 54-1.

## **ALCOHOLIC BEVERAGES**

When an event sponsor sells or furnishes beer, wine, or other spirits, a temporary license to do so shall have been obtained from the Michigan Liquor Control Commission.

## **OTHER PERMITS AND LICENSES**

For events that might include such items as tents, caterers, or open fires local permits and/or licenses may be required. The sponsor shall be responsible for acquiring those permits or licenses and providing a copy to the City of Alpena Clerk at least ten (10) days prior to the event.

## **WAIVER**

The sponsor of the event may petition the City, or its designated representative, for a waiver of one or more of the requirements for a permit under these rules. Upon receipt of such petition, if it appears to the City, or its designated representative, that one or more of the requirements of the policy creates an unnecessary hardship, not created by the action of the sponsor, or that a genuine hardship exists because of the unusual circumstances with regards to the particular activity, such requirement or requirements may be waived. The need to obtain a permit may be waived by the City, or its designated representative, if it is determined it is unreasonable for the size or nature of the activity taking place.

The nature of the event, the number of attendees anticipated, and the past history of similar events and/or sponsoring organizations are factors that will be considered in determining whether a waiver is granted.

## **REVOCAATION**

The City, or its designated representative, may revoke a permit whenever the sponsor, its employees, or agents fail, neglect, or refuse to fully comply with any and all provisions and requirements set forth herein or with any and all provisions, regulations, ordinances, statutes, or other laws incorporated herein by reference.

## **VIOLATIONS**

Any violations of this policy shall cause the immediate suspension of any uses, activities, or events authorized by any permit issued. Further penalties may be invoked as violations of State Law or City Ordinances as applicable.

## **TRANSFERABILITY**

No license or permit issued shall be transferable unless specifically authorized.

## **SEVERABILITY**

If any word, clause, sentence, or section of this policy or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of this policy.

## **RESERVATIONS**

Scheduling of all park facility rentals shall be coordinated through the City Clerk's Office, which shall maintain a master calendar for all parks and facilities. Rentals or use of the park facilities may be granted on a tiered priority basis with long standing events having priority over new or occasional events. Reservations are not transferable. Events submitting their request by the date indicated shall have priority over other events submitted later. Subsequent requests shall be reviewed on a first come first serve basis. The tiers shall be as follows:

### **TIER I (Requests received prior to February 1 of each year)**

All established entities, which have previous permission from the City Council for use of the park facilities, ie, the Michigan Brown Trout Festival, Art on the Bay, True North Radio Summer Concert Series, McRae Park Association, Huron Shores Little League, etc.

### **TIER II (Requests received prior to March 1 of each year)**

Other non-profit groups or organizations, family reunions, weddings, etc. and those for profit entities holding free events for clients, employees, or the public.

### **TIER III (Requests received prior to April 1 of each year)**

Other for profit groups or organizations.

Vendors and businesses wishing to operate within the City parks.

## **RESERVATION ANNOUNCEMENTS**

All reservations, committed uses, and unavailable times for facilities shall be posted at City Hall and on the City of Alpena website; [www.alpena.mi.us](http://www.alpena.mi.us). Reservations shall also be posted at the facility, if applicable, in advance of the event to ensure availability on the day of the event.

# CITY OF ALPENA NOISE ORDINANCE

Sec. 54-1. Noise generally.

(a) *Findings and declarations.* It is hereby found and declared that:

(1) The occurrence of loud noises in the city constitutes a detriment to public health, comfort, safety, and welfare of the residents of the city.

(2) As a matter of legislative determination and public policy, the provisions, regulations and prohibitions of this section are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety and welfare and the peace and quiet of the city and its inhabitants.

(b) *Definitions.* As used in this section all acoustical words and terms shall have the meanings set forth in the publication of the United States of American Standards Institute, New York, New York, entitled "Acoustical Terminology," USASI S1. 1-1960; all equipment used in making acoustical measurements shall meet or exceed the requirements set forth in the publication of such institute entitled "Specification for General Purpose Sound Level Meters," USASI S1. 4-1961, and all such measurements so made shall be made in full accordance with the methods and procedures set forth in USASI S1. 2-1962 entitled "Methods for the Physical Measurement of Sound."

(c) *Prohibited sound levels.* No person shall cause to be made, directly or indirectly, by any means whatsoever except vehicles whether mechanical or not, any sound that exceeds the limits set forth for the receiving and use category in table I when measured at or within the property boundary of the receiving land use, which source of sound shall be deemed prima facie to be a noise disturbance.

*Table I. Sound Levels by Receiving Land Use*

TABLE INSET:

Receiving Land Use Category	Time	A-Weighted Sound Level Limit, dBA
Residentially zoned property	10:00 p.m. to 7:00 a.m.	60
	7:00 a.m. to 10:00 p.m.	70
Office zoned property	10:00 p.m. to 7:00 a.m.	62
	7:00 a.m. to 10:00 p.m.	72
Business and parking zoned property	10:00 p.m. to 7:00 a.m.	64
	7:00 a.m. to 10:00 p.m.	74
Industrially zoned property	10:00 p.m. to 7:00 a.m.	66
	7:00 a.m. to 10:00 p.m.	76

(d) *Specific noise prohibitions.*

(1) Unless exempted under the provisions of this section, no person shall cause to be made, directly or indirectly, any loud noise which disturbs, injures or endangers the health, comfort, safety or welfare of others within the city.

(2) The following specific acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

a. *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, bus, truck or other vehicle on any street, road or public place, except as a warning pursuant to the provisions of section 706 of the Michigan Vehicle

Code (MCL 257.706, MSA 9.2406); whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

b. *Radio and television sets, phonographs, etc.* The use of radio or television receiving sets, musical instrument, phonograph or other audio equipment for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with volume louder than is necessary for convenient hearing for the person or persons who are in the structure in which such audio equipment is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph or audio equipment between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building or structure in which it is located shall be prima facie evidence of a violation of this section.

c. *Loudspeakers, amplifiers for advertising.* The use of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising.

d. *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort and repose of persons residing in the vicinity.

e. *Exhausts.* The discharge into the open air of the exhaust of any internal combustion engine except through an adequate muffler or other device which will effectively prevent loud or explosive noises therefrom. This includes by way of example and not by way of limitation, internal combustion engines powering motor vehicles, lawn mowers and chain saws.

**State law references:** Mufflers, MCL 257.707, MSA 9.2407.

f. *Loading and unloading.* The creation of a loud and excessive noise in connection with loading and unloading any vehicle or the opening or destruction of bales, boxes, crates and containers.

g. *Construction or repairing of buildings.* The erection (including excavating), demolition, alteration, or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.

h. *Blowers, fans, pumps.* The use of any blower, fan or pump or engine or motor in connection therewith, including by way of example and not by way of limitation, air conditioning systems, compression devices and pool filter systems, if such use creates loud, penetrating or continuous noises that disturb the comfort or repose of persons residing in the vicinity.

i. *Schools, courts, churches, hospitals.* The creation of any excessive noise, adjacent to any school, institution of learning, house of worship or judicial court while such schools, courts, churches or hospitals are in use, or adjacent to any hospital which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed on the adjacent streets indicating that the street is a school, hospital, church, or court street.

**State law references:** Disturbing public gatherings, MCL 750.169, 752.525, MSA 28.366, 28.133.

j. *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

k. *Drums, bell and the like.* The use of any drum, bell, horn, loudspeaker or other instrument or device for the purpose of attracting attention to any performance show or sale or display of merchandise by any creation of noise or sound.

l. *Mobile loudspeakers.* The use of mechanical loudspeakers or amplifiers on vehicle or aircraft for commercial advertising purposes.

m. *Yelling, shouting and the like.* Yelling, shouting, hooting, whistling or singing on the public streets at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel, motel or other type of residence or of any persons in the vicinity.

(3) If any person who is not exempted under the provisions of this section shall cause to be made any of the noises prohibited under this subsection (d), and if such noises shall be proved to be in violation of the sound levels prescribed under this section, such proof shall be sufficient to prove a violation under this section.

(e) *Exceptions.* The prohibitions contained in this section shall not apply to persons who are engaged in:

(1) The performance of any public or governmental function such as the sounding of a church or school bell, or a police, fire, ambulance, air raid or like disaster warning, alert or alarm, whether such alarm be for an actual emergency purpose or for practice or drilling purposes.

(2) A religious, charitable, recreational, civil or political activity by means of a sound truck or other amplifying device, for nonprofit purposes, provided that such persons shall have first filed with the city council an application for a permit setting forth the sponsorship, date, hours and routes of such activity and the council shall have issued a permit after having ascertained that such activity is not

in conflict in terms of hours, route, traffic volume and like factors, with any other previously scheduled activity.

(3) Any activity specifically permitted or required by any ordinance, resolution, statute or governmental regulation.

(f) *Audio equipment in motorized vehicles.* The use of any radio, audio equipment, or other machine or device for the producing or reproducing of sound in any motorized vehicle between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be audible at a distance of 100 feet from the said motorized vehicle is prohibited and shall be prima facie evidence of a violation of this section. Any person violating this section shall be responsible for a civil infraction and shall be assessed a civil fine not to exceed \$500.00.

(Code 1971, § 22-1; Ord. No. 02-330, §§ 1, 2, 11-4-2002)